

Complaints, Comments & Compliments Policy

The purpose of a complaints system is to put right what has gone wrong and to learn from it.

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1. Introduction

We recognise the importance of being accountable for the services we provide and of putting things right and saying sorry when they go wrong. We welcome our customers' feedback and will use it to improve our services. The purpose of this policy is to provide a framework for dealing with our customers' views in the form of complaints, comments and compliments. It explains our processes and our obligations to our customers and it outlines the role of the Local Government Ombudsman.

2. Our aims

As a council we strive to provide high quality services to all our customers, but occasionally things go wrong. Complaints help us to put things right and make sure the same mistake does not happen again.

Our corporate complaints policy aims to ensure that:

- our procedures are simple, our customers know where and how to complain and have easy access to our complaints system;
- our customers receive an acknowledgement and information on the progress of their complaint;
- everyone in the council or working on its behalf understands the complaints procedure well;
- those responding to complaints have the authority and expertise to get at the facts and recommend remedies;
- problems are resolved as soon as possible after they are identified;
- we work together with our partners to provide a single, coordinated response;
- our customers receive a timely appropriate response with prompt and adequate action when we have failed to provide a satisfactory service;
- complaints will take no longer than 12 weeks from start to finish;.
- our customers are signposted without delay to any alternative statutory appeals or complaints processes that are more appropriate;
- the Ombudsman is clearly signposted at the end of the process;
- we learn from the complaints we receive and share our what we learn with the public.

3. How we handle complaints

3.1 Definitions of a complaint, a comment, and a compliment

- A complaint is an expression of dissatisfaction about a council service (whether that service is provided directly by the council or by a contractor or partner) that requires a response.
- A comment is a personal opinion or belief, feedback or remark expressed by a customer. Where the customer indicates they expect a reply, or where it is otherwise thought appropriate to do so, this should be dealt with as general correspondence.
- A compliment is a customer statement of positive recognition or praise for a service or individual. Where appropriate officers may acknowledge compliments.

3.2 Scope of the complaints policy

There are a number of types of complaints that are not covered by this procedure, many of which relate to separate legal appeal processes. The excluded complaints are as follows:

Complaint type	Reason
3.2.1 A request for a service i.e. collect a missed bin, clearing a fly-tip or removing graffiti	This is treated as a service request to the operational service. It becomes a complaint when there is a repeat problem
3.2.2 School admissions issues	These are dealt with by the Schools Admission Appeal Panel
3.2.3 Appeals relating to Special Education Needs (SEN) provision	These are addressed by the council's SEN appeals process
3.2.4 From contractors or potential contractors relating to the award of contracts.	These are dealt with under the council's procurement process
3.2.5 Complaints about a planning decision	These are dealt with under the national planning appeals process
3.2.6 Complaints where the customer has started legal proceedings or has previously taken the matter to court or tribunal	These are subject to relevant legal appeal processes
3.2.7 Complaints about Penalty Charge Notices (PCNs) or Fixed Penalty Charges (FPNs)	These are dealt with by an independent appeal process

3.2.8	From members of staff (or potential members of staff) about personnel matters	These are dealt with through the council's grievance procedure
3.2.9	Housing and council tax benefit decisions or appeals	These are dealt with by the Benefit Appeals Tribunal
3.2.10	Appeals relating to social care financial assessments	These are dealt with by the Financial Assessment Review and Appeals Procedure
3.2.11	Appeals relating to homelessness applications	These are dealt with through the homeless appeal procedure
3.2.12	Complaints over 12 months old since a complainant became aware of the issue	These are out of the time limit for consideration
3.2.13	Complaints that are submitted anonymously	These are not normally investigated. See Section 5
3.2.14	Complaints about damages to property or person	These are dealt with by the Risk and Insurance team
3.2.15	Complaints about schools.	These are dealt with by the school directly with escalation to the Department for Education if the complainant is not satisfied with the response
3.2.16	Children's and Adults Social Care complaints	These are dealt with under separate statutory procedures

This list is not exhaustive and there may be other matters we cannot investigate because there is an appropriate body to deal with it. Where this is the case we will advise the complainant on how to access that process.

3.3 Complaints about policies

Some complaints concern a decision made by the council when exercising its regulatory powers (e.g. licensing, serving notices) or undertaking its statutory duties (e.g. making a decision on a homelessness claim or a planning application decision). Some are expressions of dissatisfaction with a council policy or the legislation the council must follow in carrying out its duties. These complaints are normally dealt with as policy complaints unless the complaint relates to the way the matter has been administered.

Such complaints will be treated as Stage one complaints as regards the level of officer conducting the response and the response timescale. A response will be sent explaining that the complaint made relates to a policy area or legislation, and that it cannot be pursued further through the complaints system.

Customers may appeal against the decision to classify their complaint as a policy issue rather than a performance complaint, and this right should be made clear in the Stage one reply above. Any such appeal should be treated as a Stage two complaint.

3.4 Making a complaint

Customers can make a complaint in any way they choose, including:

- online via the council website
- by email
- by telephone
- by letter
- face to face by arranging an appointment with the Complaints Team

When a complaint is made verbally, the officer should record the details of the complaint and the outcome the customer is seeking. If the officer is able to quickly resolve the complaint themselves they should do so. Otherwise details of the complaint and the desired outcome should be agreed with the complainant and forwarded to the complaints team immediately.

If a complaint is made about an officer of the council, it will be required in writing due to the possibility of disciplinary action.

Customers should try to include the outcome they are seeking as part of their complaint.

3.5 Stage one complaints

Stage one complaints will be acknowledged within 3 working days, this will include a reference number and a due date.

Stage one complaints will be investigated by a member of the service team and agreed by their service manager. Where the complaint names a member of staff, that staff member will be informed of the complaint and given the opportunity to comment but will not be responsible for responding to the customer.

Stage one complaints will be investigated and a response will be sent to the complainant within 20 working days. Occasionally it may not be possible to conclude an investigation and respond within 20 working days. In these circumstances the investigating manager will inform the complainant of the reasons for the delay and the expected response date.

3.6 Stage two complaints

If a customer is not satisfied that all aspects of their complaint have been addressed and wishes to escalate it, the customer must inform the complaints team within 25 working days of receiving the response, stating what aspects of the response they

are dissatisfied with and their desired outcome. The Complaints Team may ask for clarification or more information before the complaint is accepted.

Stage two of the complaints process may be instigated by or in agreement with the Complaints Team Manager. A Stage two investigation reviews the investigation and outcome of a Stage one complaint and is conducted by a member of the Complaints Team. They will have access to any information or officers required to complete the investigation. Stage two responses will be agreed with the Assistant Director or Director of the service.

Stage two investigations will usually be completed within 25 working days. Occasionally it may not be possible to conclude an investigation and respond within 25 working days. In these circumstances the complaints team will inform the complainant of the reasons for the delay and the expected response date.

3.7 The Local Government Ombudsman

In the event that a customer is still not satisfied that we have resolved their complaint after proceeding through the complaints procedure, they can complain to the Local Government Ombudsman (LGO). The LGO is an independent national service that investigates complaints of injustice arising from maladministration by the council. Customers can complain to the LGO at any time, but the LGO will usually refer a complaint back to the council if it has not been through all stages of the complaints procedure.

There are some urgent or exceptional cases where the council may decide that completing the council's own procedure would be detrimental to the customer, or where it is clear that the complaint cannot be resolved by the council. In these circumstances an early referral may be made to the LGO by the Complaints Team Manager.

The LGO can be contacted at:
Local Government Ombudsman
PO Box 4771,
Coventry
CV4 0EH

Telephone:

- 0300 061 0614 for help making a complaint
- Text 'call back' to 0762 481 1595
- Use a textphone via the Next Generation Text Service

Online:

The complaint form http://www.lgo.org.uk/forms/ShowForm.asp?fm_fid=62

3.8 Responding to a complaint

	Timescale	Response prepared by	Response agreed by
Stage one	20 working days	Service Team	Service Manager
Stage two	25 working days	Complaints Team	Assistant Director / Director
Local Government Ombudsman	Directed by LGO	Complaints Team	Chief Executive

3.9 Making a complaint on behalf of someone else

For reasons of customer confidentiality, the council will not accept complaints from one person on behalf of another unless:

- the complainant has consented, either verbally or in writing, for the person to make a complaint on their behalf;
- the complaint is made on behalf of a child by their parent (who has parental responsibility) or their guardian;
- the complaint is made by an elected representative acting on their constituents behalf;

or:

- the service user cannot complain unaided and cannot give consent because they lack capacity within the meaning of the Mental Capacity Act 2005 **and** the representative is acting in the service user's best interests – for example, where the matter complained about, if true, would be detrimental to the service user.

3.10 Equalities issues in making a complaint

All reasonable efforts should be made to ensure that customers with particular needs such as physical/ sensory impairment or learning disabilities have equal access to the council's complaints service.

In some circumstances the council will offer face-to-face support or advocacy to those who may need help in making a complaint. Merton encourages people to seek support from friends and other representatives, and the council will assist people in finding such support where possible.

We collect equalities information to:-

- build an accurate picture of use by ethnic origin, age, gender, sexual orientation and disability;
- understand where take-up or use could be improved or reviewed;
- provide a base-line for planning, target-setting and measuring change;
- ensure the service is accessible equally to all sections of the community;
- assess whether any distinct needs exist amongst members of minority groups for which special provision may be necessary; and
- to check the service does not inadvertently discriminate against any particular group.

4. Complaints where different procedures apply

4.1 Complaints of discrimination and harassment

If officers believe a complaint involves discrimination or harassment it should be referred to the Complaints Team Manager, who will consider the action to be taken in consultation with the Equalities and Community Cohesion Officer. Complaints of discrimination or harassment will be monitored and reported.

4.2 Complaints by children

Complaints by or on behalf of children under 16 years of age will be handled in line with the Children Act 1989 Representations Procedure (England) Regulations 2006. The council will provide assistance to get advocacy and specialist advice for children making complaints. Complaints relating to young people over 16 years of age who receive services from Children's Social Care will also be taken under this procedure.

The council will also provide specialist help and assistance to children in care, and ensure that they are aware of their rights under the complaints procedure. The children's complaints procedure will be published on our website.

Children's Social care	Timescale	Response prepared by	Response agreed by
Stage one	10 working days	Unit/Team Manager	Service Manager/ Head of Service
Stage two	25 working days	Appointed Investigating Officer	Head of Service/ Director
Stage Three	30 working days	Independent Review Panel	Chair of Review Panel
Ombudsman	Directed by LGO	Investigating team	Investigating officer

4.3 Adult Social Care complaints

Adult Social Care complaints are dealt with under the Local Authority Social Services and NHS Complaints Regulations 2009. These regulations mean that the council has a one stage process for Adult Social Care complaints. The council will provide advice and support and work with complainants and Social Care providers to find effective resolution to complaints.

Adult Social Services	25 working days but this may be extended up to 65 working days where necessary.	Officer/Team Manager	Head of Service and Director.
Local Government Ombudsman	Directed by LGO	Complaints Manager / Investigating team	Director and Chief Executive

4.4 Constitutional and governance complaints

Complaints about officers or councillors who have failed to act within the council's constitution, or have failed to act with due legal or financial propriety in the performance of their duties will be recorded and immediately passed to the Monitoring Officer, who will acknowledge the complaint and co-ordinate a response within statutory timetables. Any further correspondence received by officers on such matters should be passed directly to the Monitoring Officer.

4.5 Complaints about services provided by contractors

Some council services are contracted out to organisations or companies that provide services on behalf of the council. Each contractor should have arrangements for complaints in their contract. The responsibility for Stage one complaints rests with the providing organisations. If resolution is not achieved via this route the council may review the complaint at Stage two.

The Complaints Team and/or the service team will monitor complaints to their contractors and use the responses to assess performance against contract performance indicators.

Complaints about social care providers will be handled in accordance with the Local Authority Social Services and NHS Complaints Regulations 2009.

4.6 Complaints about partner organisations or about shared services

Stage one complaints made to the council about its partner organisations will be referred to the relevant organisation to be dealt with according to their own individual

complaints policy and procedure. A partner organisation may be for example Circle Merton Priory who is responsible for what was council housing.

Where a complaint relates to a shared service, a complaint will be logged under the council's formal complaints procedure if the incident took place in Merton, if the lead partner is Merton or if the employee is a Merton employee.

4.7 Petitions

Petitions are not dealt with through the corporate complaints procedure. They may be submitted online via <http://www.merton.gov.uk/council/getinvolved/petitions.htm> or by post to the Head of Democracy Services or in person to your local ward councillor.

5. Confidentiality

We respect the privacy of information supplied through the complaints process, and we use it to improve our services and resolve complaints. We will collect sufficient information for us to investigate and respond to the complaint. If a formal complaint is made against a member of staff we will give them the opportunity to comment. Merton Council works in partnership with other councils and organisations to deliver services, and it will sometimes be necessary to share information with those partners in order to resolve the complaint. We will share the minimum amount of information necessary for that purpose.

We will not normally consider anonymous complaints under the complaints policy. However, where an anonymous complaint or comment relates to vulnerable people or those who might be at risk we will investigate and act on it immediately. If a customer has concerns about giving their name they can speak to a member of the Complaints team who can answer questions about how the complaint will be handled.

6. Putting things right

Where we have made mistakes or failed to meet our service standards, the council will try to put the complainant back in the position they would have been in before things went wrong. Some complaints may be resolved by correcting our mistakes. In other cases, we may consider a change of procedure or practice to prevent future difficulties of a similar kind, either for the individual customer or for others. Where the customer has sustained loss or suffering, Section 92 of the Local Government Act 2000 gives councils a general power to take remedial action, including paying compensation.

In cases where the LGO has recommended redress, the council is committed to following the advice and timescales of the LGO to the best of its ability, but reserves the right to appeal against the LGO's judgment. By offering a solution the council does not necessarily accept that it has acted inappropriately. Section two of the Compensation Act 2006 makes it clear that an apology in itself does not amount to an admission of negligence or breach of statutory duty.

7. Dealing with Persistent or Vexatious Complainants

In a minority of cases people pursue their complaints in a way that is unreasonable. They may behave unacceptably, or be unreasonably persistent in their contacts and submission of information. This can impede the effective investigation of their complaint (or complaints by others) and can have a significant impact on staff resources. These actions can occur either while their complaint is being investigated, or once the complaint investigation has finished.

Examples of unreasonable behaviour include the following:-

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have the staff members replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various organisations.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints.
- Refusing to accept the complaint decision and repeatedly arguing points with no new evidence.

In these circumstances, the following actions may be taken, either alone or in combination depending on the circumstances of the case and whether the complaint process is on-going or concluded:

- Writing to the complainant setting out responsibilities for the parties involved if the council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
- Notifying the complainant, in writing, that the council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at

an end. They may be advised that they will be treated as a persistent or vexatious complainant and as such the council does not intend to engage in further correspondence dealing with the complaint.

- Declining contact with the complainant, either in person, by telephone, by fax, by letter, by e-mail or any combination of these, provided that one form of contact is maintained.
- Nominating a named officer as the only point of contact (with a named deputy in their absence). The complainant will be notified of this person.
- Informing the complainant that in extreme circumstances the council will seek legal advice on persistent or vexatious complaints.
- Temporarily suspending all contact with the complainant, in connection with the issues relating to the complaint being considered persistent and/or vexatious, while seeking advice or guidance from its solicitor or other relevant agencies, such as the Local Government Ombudsman.

8. Complaints Performance

The Complaints team will monitor performance in order to identify under performance and address any issues, identify any trends, ensure our customers are getting value for money.